IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 823 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JETHABHAI JIVABHAI MARU & ANR

Versus

STATE OF GUJARAT & ORS

Appearance:

1. Special Civil Application No. 823 of 1994

MR GAURANG H BHATT for Petitioner No. 1-2

MR HN SOMPURA, AGP, for Respondent No. 1-3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 26/12/2002

ORAL JUDGEMENT

In this petition under Articles 226 and 227 of the Constitution, the then President and a member of Shri Palitana Anusuchit Jati Samudayik Kheti Sahakari Mandali

Ltd.. (hereinafter referred to as "the petitioner Society") have challenged the order dated 24-9-1993 (Annexure P) of the State Government rejecting their revision application under Section 155 of the Gujarat Cooperative Societies Act, 1961 (hereinafter referred to as "the Act"). The said revision was directed against the appellate order dated 30-1-1993 passed by the Additional Registrar (Appeals), Cooperative Societies, Gujarat State dismissing the petitioner - Society's appeal against the order dated 30-6-1992 (Annexure J) passed by the District Registrar of Cooperative Societies under Section 81 (1)(b) of the Act. By the said impugned order at Annexure "J", the District Registrar directed removal of the managing committee of the petitioner Society and appointed Gujarat State Cooperative Farming Societies Federation Ltd., Ahmedabad as administrator for a period of one year from the date of taking over the charge of the petitioner - Society. Upon dismissal of the aforesaid revision application, the District Registrar by his order dated 27-12-1993 directed the petitioner Society to hand over the administration of the Society to Shri Haribhai K Ziniya, retired Deputy Mamlatdar nominated by the Gujarat State Cooperative Farming Societies Federation Ltd., Ahmedabad.

2. The aforesaid orders are challenged firstly on the ground that one managing committee cannot be removed for the defaults of its predecessor and secondly on the ground that in the facts and circumstances of the case, it was not possible for the petitioner - Society to distribute the land to all its members .

3. When notice came to be issued by this Court on 20-1-1994, ex-parte ad-interim order of maintenance of status-quo was passed which came to be continued from time to time and ultimately on 25-7-1994 the petition was admitted and ordered to be finally heard on an early date.

4. Unfortunately, however, the petition has reached hearing only now and the learned counsel for the petitioner submits that in view of the passage of more than 9 years after dismissal of the revision application, the orders passed by the authorities under Section 81 may not be operated as the fact situation is required to be considered afresh. Of course, this was the alternative submission made by the learned counsel for the petitioner as according to him the petition deserves to be allowed in view of the contentions raised in the petition.

5. However, in view of the passage of 9 years, this

Court is of the view that the authorities will have to examine the matter afresh to decide whether the managing committee which is presently holding the office should be subjected to any proceedings under Section 81 of the Act after looking to the performance of the petitioner Society in the last 10 years and also after considering the composition of the present managing committee and the composition of the managing committees for the previous years when the defaults in question had taken place.

6. In view of the above, this petition is disposed of with a direction to the respondents not to implement the orders dated 24-9-1993, 30-1-1993 and 30-6-1992 at Annexures "P", "L" and "J" respectively without first considering the present factual position and also the composition of the present managing committee vis-a-vis the composition of the previous managing committees.

In any case, the respondent - authorities shall give the present managing committee an opportunity of being heard before passing any adverse order.

7. The petition is accordingly disposed of in terms of the aforesaid directions.

Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah,J)

zgs/-